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Attorneys for Defendant Sierra Vista Unified School District

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CLERK OF SUPERIOR COURT  
BY *jc*

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

**IN AND FOR THE COUNTY OF COCHISE**

THOMAS ABRUZZO, natural father on  
behalf of ASHLEY ABRUZZO AND  
KRISTA ABRUZZO, minors,

Plaintiffs,

vs.

SIERRA VISTA UNIFIED SCHOOL  
DISTRICT, a political subdivision of the State  
of Arizona; DAVID F. FALCON and JANE  
DOE FALCON, husband and wife,

Defendants.

Case No. CV201800043

**DEFENDANT SIERRA VISTA  
UNIFIED SCHOOL DISTRICT'S  
ANSWER**

(Assigned to the Honorable  
Wallace Hoggatt, Div. 3)

Defendant Sierra Vista Unified School District ("District"), for its answer to  
Plaintiffs' Complaint, hereby admits, denies, and alleges as follows:

**I. PARTIES AND JURISDICTION**

1. The District lacks knowledge or information sufficient to form a belief as to  
the truth of the allegations of paragraph 1 and, therefore, denies the allegations.

1           2.     The District admits the allegations of paragraph 2.

2           3.     In response to paragraph 3, the District admits that defendant David F.  
3 Falcon formerly worked for the District as a bus driver. The District denies any and all  
4 remaining allegations of paragraph 3.  
5

6           4.     The District admits the allegations of paragraph 4.

7           5.     The District admits the allegations of paragraph 5.

8           6.     The District alleges that paragraph 6 contains legal conclusions that require  
9 no response. To the extent a response is required, the District denies each and every  
10 allegation in this paragraph. The District further denies that any of its employees  
11 committed any acts of negligence while acting within the course and scope of their  
12 employment with the District.  
13  
14

15          7.     The District admits the allegations of paragraph 7.

16          8.     The District alleges that paragraph 8 contains legal conclusions that require  
17 no response. To the extent a response is required, the District denies each and every  
18 allegation in this paragraph.  
19

20          9.     The District alleges that paragraph 9 contains legal conclusions that require  
21 no response. To the extent a response is required, the District denies each and every  
22 allegation in this paragraph. The District affirmatively alleges that Plaintiffs failed to  
23 properly serve a valid notice of claim on the District.  
24

25          10.    The District admits the allegations of paragraph 10.  
26

27       **II.   FACTS**

28          11.    The District admits the allegations of paragraph 11.

1           12.    The District lacks knowledge or information sufficient to form a belief as to  
2 the truth of the allegations of paragraph 12 and, therefore, denies the allegations.

3           13.    The District denies the allegations of paragraph 13.

4           14.    The District lacks knowledge or information sufficient to form a belief as to  
5 the truth of the allegations of paragraph 14 and, therefore, denies the allegations.

6           15.    The District lacks knowledge or information sufficient to form a belief as to  
7 the truth of the allegations of paragraph 15 and, therefore, denies the allegations.

8           16.    The District denies the allegations of paragraph 16.

9           **III.    COUNT ONE - NEGLIGENCE**

10          17.    The District alleges that paragraph 17 contains legal conclusions that require  
11 no response. To the extent a response is required, the District denies each and every  
12 allegation in this paragraph.

13          18.    The District alleges that paragraph 18 contains legal conclusions that require  
14 no response. To the extent a response is required, the District denies each and every  
15 allegation in this paragraph.

16          19.    The District alleges that paragraph 19 contains legal conclusions that require  
17 no response. To the extent a response is required, the District denies each and every  
18 allegation in this paragraph.

19          20.    The District denies the allegations of paragraph 20 to the extent that they  
20 pertain to the District.

21          21.    The District denies the allegations of paragraph 21.

22          22.    The District denies the allegations of paragraph 22.

1       23.    The District denies the allegations of paragraph 23.

2       **IV.    DAMAGES**

3       24.    The District denies the allegations of paragraph 24.

4       25.    The District denies the allegations of paragraph 25.

5       26.    The District denies the allegations of paragraph 26.

7                               **AFFIRMATIVE DEFENSES**

8       1.     The District denies all allegations not expressly admitted above, including all  
9       allegations in Plaintiffs' prayer for relief.

10       2.    The District alleges that the Complaint fails to state a claim upon which relief  
11       may be granted.

12       3.    The District reserves the right to allege the fault and negligence of any other  
13       party or any other person who is not presently a party, but who may be wholly or partially  
14       at fault for any of Plaintiffs' alleged injuries and damages.

15       4.    The District alleges that Plaintiffs failed to properly serve a valid notice of  
16       claim on the District pursuant to A.R.S. § 12-821.01.

17       5.    The District alleges that Plaintiffs' claims against the District are barred in  
18       accordance with A.R.S. § 12-820.05(B).

19       6.    The District alleges that Plaintiffs' claim for punitive damages against the  
20       District is barred in accordance with A.R.S. § 12-820.04.

21       7.    The District asserts that it is not liable for the acts of defendant David Falcon,  
22       as alleged, under the doctrines of vicarious liability or respondeat superior.

1           8.       The District has not yet had a reasonable opportunity to complete discovery.  
2 Because of the possibility that facts and circumstances may be discovered later, the District  
3 reserves the right to assert, and hereby incorporates by reference, all defenses contained in  
4 Rules 8 and 12, Ariz. R. Civ. P. The District further alleges any other matter constituting  
5 an avoidance or affirmative defense, including A.R.S. §§ 12-820 through and including 12-  
6 821.01.  
7

8  
9           WHEREFORE, having fully defended, the District requests that this Court enter  
10 judgment in its favor on Plaintiffs' Complaint, with prejudice and on the merits, that  
11 Plaintiffs take nothing by their claims, that the District be awarded its costs of suit and  
12 attorneys' fees—if and as appropriate—and that the Court grant the District such other and  
13 further relief as is deemed just and proper under the circumstances.  
14

15           DATED this 2<sup>nd</sup> day of March, 2018.  
16

17                           WRIGHT WELKER & PAUOLE PLC

18                           By 

19                           Matthew W. Wright  
20                           Christopher S. Welker  
21                           10429 South 51<sup>st</sup> Street, Suite 285  
22                           Phoenix, Arizona 85044  
23                           Attorneys for Defendant Sierra Vista Unified  
24                           School District

25           **ORIGINAL** of the foregoing mailed via Federal Express  
26 for filing this 2<sup>nd</sup> day of March, 2018, to:

27           Clerk of the Court  
28           Cochise County Superior Court  
          P. O. Drawer CK  
          100 Quality Hill  
          Bisbee, Arizona 85603

1 **COPY** of the foregoing mailed via Federal Express  
2 this 2<sup>nd</sup> day of March, 2018, to:

3 Hon. Wallace Hoggatt  
4 Cochise County Superior Court  
5 P. O. Drawer CG  
6 100 Quality Hill  
7 Bisbee, Arizona 85603

8 **COPY** of the foregoing mailed  
9 this 2<sup>nd</sup> day of March, 2018, to:

10 Dev K. Sethi  
11 Matthew F. Schmidt  
12 Schmidt, Sethi & Akmajian  
13 1790 E. River Road, Suite 300  
14 Tucson, Arizona 85718  
15 Attorneys for Plaintiffs

16 /s/Debi Handrahan

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